

# DRAFT

information will be paid for by the requesting party. For purposes of this subsection, a "special data extraction" shall mean the creation of an output record, from existing data files, that is not normally created (by the party being audited/examined) from software programs that are currently resident of the production program library. In the event that the Customer requests SWBT to develop an Audit or Examination type software program(s), the cost for such program development and CPU time will be paid by the Customer at rates and charges as specified in Schedule II, attached hereto. If SWBT is the requesting party for a special data extraction from the Customer, the Customer's necessary program development and CPU time will be paid by SWBT at rates equal to those specified in Schedule II. In either event, the party developing the software will provide the other party all documentation of said program(s) at the conclusion of the Audit or Examination. The party receiving the program(s) may retain same for use in later Audits or Examinations; however, any necessary modification will involve additional cost to the requesting party.

## 5. Confidential Information

- a) Any authorized representative of either party engaged in an Audit or Examination must sign a joint non-disclosure agreement with the Customer and SWBT.
- b) All information received or reviewed by either party or authorized representative is considered proprietary and subject to Exhibit A. Its use will be limited to:

# DRAFT

- Performance of the Audit or Examination;
- Preparation of any report(s) for the sole purpose of providing Audit or Examination results, and the resolution of its findings, to the Customer, SWBT or their respective authorized representative;
- Preparation and resolution of claims; and
- No other purpose unless agreed to in writing by the Customer and SWBT.

## 6. Written Notification and Time Frame Requirements

- a) The party requesting an Audit or Examination will provide written notification of its intent to perform an Audit or Examination to the other party at a minimum of forty-five (45) calendar days before the desired start date. Such notice shall be directed in accordance with Section XII of this Agreement. This written notification must include, at a minimum:

- The specific subject of the Audit or Examination;
- The start date of the Audit or Examination;
- The scope of the Audit or Examination;
- The requested location(s) for performing on-site activities. Location(s) will be mutually agreed upon by the parties with approval of a location not to be unreasonably denied; and
- The names, addresses and telephone numbers of representatives from the requesting party expected to conduct the Audit or Examination.

# DRAFT

- b) Within fifteen (15) calendar days of receipt of the above-described notification, the party receiving same shall acknowledge its receipt and may at that time, for good and reasonable cause, change the Audit or Examination start date to a mutually agreed-upon date. No more than one (1) Audit or Examination of a party may take place at one time, if the simultaneous audits or examinations would involve the same audited party's functional group(s).
- c) Within forty-five (45) calendar days of an Audit or Examination's conclusion, the party conducting same shall provide to the other party a final report, in writing, identifying any deficiencies found and documenting any claims associated with the Audit or Examination. In the event this time frame cannot be met, the party conducting the Audit or Examination will so advise the other party and the two Parties will mutually agree upon an extension.
- d) Upon receipt of a final report, the audited/examined party will investigate all findings and claims. After investigation, the audited/examined party will provide a response, in writing, within forty-five (45) calendar days of receipt of the final report. In the event this time frame cannot be met, the two parties will mutually agree upon an extension.

This report will detail the audited/examined party's investigative actions, and may resolve that one of the following is true: (1) no settlement is due, (2) a

# DRAFT

settlement is due to the Customer from SWBT or (3) a settlement is due to SWBT from the Customer.

- e) The party conducting the Audit or Examination will either concur or object to the response within forty-five (45) calendar days of receipt of other's written response. Should settlement be agreed upon, payment will be made in accordance with Exhibit B, Section 3 of this Agreement.

## VIII. Liability and Indemnification

### A. Limitation of Liability.

Except as otherwise provided in this Agreement, each Party's liability to the other (as distinct from a Party's obligation to pay for services provided pursuant to this Agreement) for any loss, cost, claim, injury, liability, or expense, including reasonable attorneys' fees, relating to or arising out of any negligent act or omission in its performance of this Agreement (not involving knowing and willful misconduct) shall be limited to the amount of direct damage actually incurred. A Party shall not be liable for its inability to meet the terms of this Agreement where such inability is caused by failure of the other Party to provide, after receipt of a written request, the information necessary to allow the first Party to comply with the obligations stated herein. Absent gross negligence or knowing and willful misconduct, neither Party shall be liable to the other for any indirect, special, or consequential damage of any kind whatsoever. The Customer's direct damages consist of two elements only: (a) in the case of loss of data or information to be supplied to the Customer, SWBT's charges for such data or information, and (b) to the extent that SWBT's act or omission

# DRAFT

precludes any possible rendition of End-User bills, the net revenue which may have been due the Customer for services defined in I.F.1, I.F.2, and I.F.3 of this Agreement but for SWBT's act or omission, as calculated in accordance with Exhibit B, Section 2.1.6. The Parties agree to use their best efforts to mitigate damages.

## B. Indemnification.

1. Except as otherwise provided in this Agreement, without regard to whether services are provided under Tariff or contract, each Party (the "Indemnifying Party") will indemnify and hold harmless the other Party ("Indemnified Party") from and against any loss, cost, claim, liability, damage or expense (including reasonable attorney's fees) to third Parties, relating to or arising out of negligence or misconduct by the Indemnifying Party, its employees, agents, or contractors, and associated with this Agreement. In addition, the Indemnifying Party will defend any action or suit brought by a third Party against the Indemnified Party for any loss, cost, claim, liability, damage or expense relating to or arising out of the negligence or misconduct of or by the Indemnifying Party, its employees, agents, or contractors, under this Agreement.

The Indemnified Party will notify the Indemnifying Party promptly in writing of any written claims, lawsuits, or demand by third Parties for which the Indemnified Party alleges that the Indemnifying Party is responsible under this section and tender the defense of such claim, lawsuit or demand to the Indemnifying Party. The Indemnified Party also will cooperate in every reasonable manner with the defense or settlement of such claim, demand or lawsuit. The Indemnifying Party will not

# DRAFT

be liable under this subparagraph for settlements by the Indemnified Party of any claim, demand or lawsuit unless the Indemnifying Party has approved the settlement in advance or unless the defense of the claim, demand or lawsuit has been tendered to the Indemnifying Party in writing and the Indemnifying Party has failed promptly to undertake the defense. (For End-User Service Denial Liability see Section XXII; For Customer Agency Billing Liability see Section XXIV.)

2. Notwithstanding any other provision of this Section VIII, the parties acknowledge that SWBT has no knowledge of the validity of message payment obligations (billing charges) sent to SWBT for billing and collections under this Agreement, and that SWBT therefore strictly relies upon the Customer to forward only correct billing charges that can be, if necessary, substantiated in a court of law.

Upon request, the Customer will provide to SWBT all evidence needed to sustain billing charges challenged by an End-User, and SWBT may adjust said charges with recourse if the Customer fails to do so, or if, in SWBT's sole opinion, the circumstances involved in the dispute, should be handled between the Customer and the End User. The Customer certifies, when forwarding billing charges to SWBT, that said charges are true and correct, and accurately reflect proper charges legally owed by the billed Party (End-User). This Customer certification of validity shall apply to all billing charges forwarded to SWBT under this Agreement by the Customer from whatever source. Should SWBT incur liability for billing and collection of any billing charges forwarded by the Customer, or for termination of an End-User's local phone

# DRAFT

service as part of said collection, or for defamation or libel or injury to credit or otherwise incurs liability arising from or resulting from SWBT's performance of its obligations under this Agreement, the Customer will defend, indemnify, and hold harmless SWBT for any loss, cost, claim, damage or expense (including reasonable attorney's fees) arising from such billing and collection.

3. **Infringement:** The Customer shall indemnify SWBT for any loss, damage, expense (including reasonable attorney's fees) or liability that may result by reason of any infringement or claim of infringement of any patent, trademark, copyright, trade secret or other proprietary interest based upon SWBT's provision of Services provided pursuant to this Agreement. However, where such infringement or claim arises solely from the customer's adherence to SWBT's written instructions or directions, SWBT shall so indemnify the Customer for such infringement or claim of infringement.

Each Party shall defend or settle, at its own expense, any action or suit against the other for which it is responsible under this clause. Each Party shall notify the other promptly of any claim of infringement for which the other is responsible, and shall cooperate with the other in every reasonable way to facilitate the defense of any such claim.

## IX. Proprietary Information

Attached to this Agreement as Exhibit A is the Parties' understanding with respect to Proprietary Information.

# DRAFT

## X. Amendments: Waivers

This Agreement or any part thereof may be modified by written amendment signed by both Parties. No amendment or waiver of any provision of this Agreement and no consent to any default under this Agreement shall be effective unless the same shall be in writing and signed by or on behalf of the Party against whom such amendment, waiver or consent is claimed. In addition, no course of dealing or failure of any Party to strictly enforce any term, right or condition of this Agreement shall be construed as a waiver of such term, right or condition.

## XI. Assignment

Any assignment, in whole or part, by either Party, other than an assignment by SWBT to an affiliate, of any right, obligation, or duty, or of any other interest hereunder, without the written consent of the other Party shall be void. Such written consent shall not be unreasonably withheld or delayed. All obligations and duties of a Party to this Agreement shall be binding on all successors in interest and assigns of such Party.

## XII. Notice and Demands

Except as otherwise provided under this Agreement, all notices, demands, or requests which may be given by a Party to the other Party shall be in writing and shall be deemed to have been duly given 1) on the date delivered in person or 2) on the date of the return receipt for those sent postage prepaid, in the United States mail via Certified Mail, return receipt requested: or, 3) on the date transmitted electronically provided that the receiving machine delivers confirmation to the sender and receipt is verified through a phone call. If personal delivery is selected as the method of giving notice under this section, a receipt of such delivery shall be obtained. Mailing addresses for



# **DRAFT**

notices shall be as indicated on the Customer's current Implementation Forms. The Parties will officially indicate their electronic notice name and address if this method of notification will be employed.

## **XIII. Third-Party Beneficiaries**

This Agreement shall not provide any non-party with any remedy, claim, liability, reimbursement, claim of action or other right.

## **XIV. Governing Law**

This Agreement shall be governed by the laws of the State of Missouri.

## **XV. Force Majeure**

Neither Party shall be held responsible for any delay or failure in performance of any part of this Agreement to the extent that such delay or failure is caused by fire, flood, epidemic, explosion, war, terrorist acts, riots, insurrections, explosions, earthquakes, nuclear accidents, power blackouts, strike, embargo, government requirement, civil or military authorities, Act of God or by the public enemy, or other causes beyond their reasonable control. If any force majeure condition occurs, the Party delayed or unable to perform shall give immediate written notice to the other Party. During the pendency of the force majeure condition the duties of the Parties under this Agreement shall be abated and shall resume without liability thereafter.

## **XVI. Entire Agreement**

This Agreement, together with the Schedules, Exhibits, Implementation Forms and Guidelines referenced herein, and Amendments, if any, attached hereto, constitute the entire understanding between the Parties and

# **DRAFT**

supersedes all prior understandings, oral or written presentations, statements, negotiations, proposals and undertakings with respect to the subject matter hereof.

## **XVII. Severability**

Nothing in this Agreement is intended to obligate either Party to perform any act which is illegal or which is contrary to regulatory rule or order, or to public policy. If any provision of this Agreement is held invalid, unenforceable or void, the remainder of the Agreement shall continue in full force and effect, provided the remainder allows for implementation or continuation of Billing and Collection Services essentially as contemplated herein.

## **XVIII. Executed in Counterparts**

This Agreement may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same document.

## **XIX. Headings**

The headings and numbering of Sections and Paragraphs in this Agreement are for convenience and shall not be construed to define or limit any of the terms herein or affect the meanings or interpretation of this Agreement.

## **XX. Termination of Service**

- A. If either Party fails to perform under the terms of this Agreement and remains in substantial and material non-compliance after receipt of thirty (30) days written notice of non-compliance from the non-**

# DRAFT

**breaching Party, this Agreement is terminated. Notwithstanding the foregoing, any breach of sections I.F, I.G and I.H defined herein must be cured within ten days. Upon termination, minimum annual purchase of service charges for the current year and all remaining years will not be applicable if SWBT is the breaching Party. In that event, SWBT will be liable for the Customer's reasonable increased billing expense, if any, for a period of eight (8) months subsequent to termination or what would have been the remaining term of the Agreement, whichever is less. If the Customer is the breaching Party, the Customer will be liable for eight (8) months of the Customer's average service charges as provided by SWBT under this Agreement and will be due and payable by the Customer to SWBT at the time of termination of the Agreement. The eight months of service charges immediately preceding the termination of the Agreement will be used in determining the termination charges due. In the event that termination occurs prior to eight (8) months of service, the Parties agree to use an eight month prorate of the annual minimum purchase of service. The Customer's liability for breach shall be the greater of, 1) an eight (8) month prorate of the Guaranteed Annual Minimum purchase of service defined in Schedule I or 2) eight (8) months of actual billings submitted by Customer.**

**Should the Customer breach this Agreement due to a violation of the 85 % volume requirement, all services which have been provided to the Customer under this Agreement will be recalculated at the Standard 3 year contract rates and the Customer will immediately pay SWBT the difference between the volume discount rates and the standard rates.**

- B. Notwithstanding Paragraph A. above, either Party may at its sole discretion, and with eight (8) months' notification to the other Party, terminate this Agreement in its entirety.**

# DRAFT

1. In the event that SWBT elects to terminate this Agreement under this Paragraph B, Customer's minimum annual purchase of services for the current year and all remaining contract years will not be applicable.
2. Should the Customer elect to terminate this Agreement under this Paragraph B prior to the completion of the term , all services which have been provided to the Customer under this Agreement as of the date of termination will be charged accordingly. In addition the Customer will immediately pay the minimum purchase of service for each year of the contract up through the year in which termination completes. The terminating Customer will not be responsible for minimum purchase of services in subsequent years.

## XXI. Certification Requirements

The Customer states that it has obtained all necessary jurisdictional certification required in those jurisdictions in which the Customer has ordered Billing and Collection service(s). The Customer certifies that, if the Customer should forward to SWBT any billing originating from a third Party (whether the Customer has purchased said billing or is acting as a billing agent), the Customer will insure that the originating service provider has obtained all required certification for those jurisdictions in which said End-User billing will be processed. The Customer will provide evidence of all such certifications at the request of SWBT. SWBT is not required to process any Customer billing or billing that is forwarded on behalf of a third party if the Customer or third Party has not obtained proper certification.

# DRAFT

The Customer will provide upon SWBT's request, the name, address and contact number of all originating service providers.

Failure of the Customer to obtain or retain proper jurisdictional certification may result in service termination as described in Section XX. A. of this Agreement.

## XXII. End-User Service Denial

This Agreement does not obligate SWBT to terminate End-User services for non-payment. Upon completion of SWBT collection procedures for non-payment of either transmission or non-transmission charges, SWBT may adjust, at its sole discretion, such charges with recourse to the Customer. In addition, the parties acknowledge that changes in applicable laws and/or regulations may prevent SWBT from terminating or threatening to terminate End User service for non-payment of any Customer charges, and that such actions may require changes to SWBT procedures.

## XXIII. Term

~~The term of this Agreement is three (3) years. Billing and Collection services will be extended on a month-to-month basis thereafter.~~ Billing and Collection services shall not be extended if either Party gives notice, no less than ninety (90) days prior to the completion of the term. If such notice is not given, the terms and conditions under which Billing and Collection services are provided to other Customers at that time, including applicable contract rates and minimum purchase of service charges available at that time to other Customers, will be applied to this Agreement.

The Customer will forward only its billing for SWBT processing unless the Customer notifies SWBT to the contrary in writing. For the purposes of this paragraph, should the Customer forward billing of a third Party, such billing will be considered the Customer's billing.

Should a Customer act as an agent for a third Party and forward said billing to SWBT or should the Customer purchase billing from a third Party and forward said billing to SWBT, the Customer shall remain solely responsible to such third parties. The Customer agrees to protect, indemnify, and hold harmless SWBT for any and all claims by third parties regarding such third parties' billing forwarded to SWBT by the Customer.

Customer further agrees to impose on the third Party the duty to adhere to all applicable terms and conditions of this Agreement regarding billing that will be processed by SWBT as well as SWBT's right to audit billings submitted by a third Party to ensure that the billings comply with terms of this Agreement. Customer will also ensure the Third Party agrees that SWBT or its authorized representative(s) of SWBT shall have the right to review the third Party's source documents, systems, records, and procedures in performing such an audit. Such audit does not constitute a SWBT audit or Examination of the Customer. At SWBT's request, Customer will furnish documented evidence of Customer's compliance that such applicable terms and conditions of this Agreement have been imposed by Customer on the third party and that the third Party agrees SWBT or SWBT's authorized representative may review the third Party's source documents, systems, records and procedures.

Should the Customer elect the volume discount pricing plan, the Customer shall remain solely responsible for ensuring that each sub-entity that they

# DRAFT

are forwarding billing on behalf of, complies with the volume discount requirement of 85 % of that sub-entity's billings.

Customers that retain a third Party, other than SWBT, to provide their End-User inquiry, authorize such third parties to represent them and to act in their stead in the performance of inquiry and collection activities associated with the Customer's billings.

## XXV. Publicity

Neither Party shall publish or use advertising, sales promotions, press releases, or matters wherein the other Party's name or marks are mentioned or language from which association with the other Party's name or mark therewith may be inferred or implied without the other Party's prior written approval.

## XXVI. Compliance with Law

Both Parties agree that they will comply with all applicable federal, state and local laws, ordinances, regulations and codes with which they are obligated to comply in the conduct of their business including the procurement of required permits and certificates, specifically, both parties will comply with the provisions of the Fair Labor Standards Act of 1983, as amended. Parties further agree not to discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age or disability.

## XXVII. Right to Withhold

Notwithstanding anything contained herein to the contrary, if the financial condition of the Customer becomes impaired and/or the Customer

# DRAFT

fails to pay its obligations to SWBT as they become due, the Customer agrees SWBT shall be entitled to withhold any funds, which otherwise might be due, or become due to the Customer hereunder, to satisfy any unpaid obligation of the Customer to SWBT, including, but not limited to, any amounts due under this Agreement, any access charges due SWBT, any amounts due to SWBT under applicable tariff, or otherwise.

## XXVIII. Independent Contractors

It is expressly understood and acknowledged that the Parties are entering into this Agreement as independent contractors.

## XXIX. Remedies Cumulative

All remedies are cumulative and are not exclusive of other remedies to which the injured Party may be entitled at law or equity.

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the date first written above.

**SOUTHWESTERN BELL  
TELEPHONE COMPANY**

By \_\_\_\_\_  
(Signature)

Name \_\_\_\_\_  
(Printed)

Title \_\_\_\_\_

Date \_\_\_\_\_

\_\_\_\_\_  
(Name of Customer)

By \_\_\_\_\_  
(Signature)

Name \_\_\_\_\_  
(Printed)

Title \_\_\_\_\_

Date \_\_\_\_\_



## Southwestern Bell

June 3, 1996

T. Michael Payne  
Vice President  
General Counsel  
Operations and Secretary

Ms. Karol M. Sweitzer  
Vice President-Business Planning & CFO  
Southwestern Bell Communications Services, Inc.  
130 East Travis, Suite 550  
San Antonio, Texas 78205

Re: Charges for Legal Services Provided to Other  
Southwestern Bell Companies

Dear Ms. Sweitzer:

FCC rules require that Southwestern Bell Telephone Company (SWBT) book as revenue its fully distributed cost when attorneys and paralegals employed by SWBT perform services for any affiliated company. We have received a new cost study relative to our hourly rates effective May 17, 1996, through December 31, 1999.

The hourly rates charged for SWBT attorneys providing services for affiliates are \$166 for district level attorneys, \$175 for division level attorneys, \$204 for fifth level attorneys and \$286 for officer level attorneys. The hourly rate for paralegals is \$97.

All related expenses will be directly billed to the appropriate affiliate. Minor travel expenses incurred will be submitted with the attorney/paralegal hours and billed back to the affiliate. The new rates will remain in effect until superseded.

If you have any questions, please contact my Contract Administrator, Judy Ciegel, on 314-235-4095.

Sincerely,



One Bell Center  
St. Louis, Missouri 63101

Please 314 235-1888

CONFIDENTIAL

**AFFILIATE SERVICE CONTRACT**  
**PROPERTY TAX SERVICES**

The Tax Division-Legal Department of Southwestern Bell Telephone Company will provide property tax service for Southwestern Bell Communications Services, Inc. during the periods January 1, 1997 to December 31, 1997 and January 1, 1998 to December 31, 1998.

These services include (but are not limited to) tax rendition, assessment negotiation, assessment appeal, verification and approval of tax billing, consultation, and research.

In accordance with FCC rules and Southwestern Bell Telephone Operating Practice 125, the fully distributed hourly rate for 1997 and 1998 is \$ 68.00.

Approved: *William E. Stue*  
Executive Director-  
Title: Corporate Tax & Budgets  
Date: 11-25-96

Approved: *Karl M. Sweeney*  
VP - Bus. Planning - C -  
Title:   
Date: 12/17/96

② Southwestern Bell Telephone

Agreement No. 960418

Page 1 of 7

CARRIER TOLL DATA REPORT AGREEMENT

Southwestern Bell Telephone Company  
a Missouri corporation  
One Bell Center  
St. Louis, Missouri 63101

("SWBT")

and

Southwestern Bell Communications Services, Inc.  
a Delaware corporation  
130 East Travis, Suite 550  
San Antonio, Texas 78205

("IXC")

## TABLE OF CONTENTS

PREAMBLE.....	2
CLAUSE 1. DESCRIPTION OF SERVICES .....	2
CLAUSE 2. COMPENSATION.....	2
CLAUSE 3. TERM OF AGREEMENT .....	2
CLAUSE 4. PROJECT COORDINATORS .....	2
CLAUSE 5. CHOICE OF LAW .....	3
CLAUSE 6. COMPLIANCE .....	3
CLAUSE 7. CONFLICT OF INTEREST.....	3
CLAUSE 9. DISCLAIMER OF WARRANTIES.....	3
CLAUSE 11. INACCURACIES OR OMISSIONS .....	3
CLAUSE 12. INDEMNIFICATION .....	4
CLAUSE 13. INVOICES, CHARGES, AND PAYMENTS .....	4
CLAUSE 14. LIMITATION OF LIABILITY .....	4
CLAUSE 15. LICENSE .....	4
CLAUSE 16. NON-EXCLUSIVE MARKET RIGHTS.....	4
CLAUSE 17. NON-WAIVER.....	4
CLAUSE 18. NOTICES .....	4
CLAUSE 19. PUBLICITY .....	5
CLAUSE 20. SEVERABILITY .....	5
CLAUSE 21. SURVIVAL OF OBLIGATIONS .....	5
CLAUSE 22. TAXES.....	5
CLAUSE 23. TERMINATION .....	5
CLAUSE 24. USE OF INFORMATION .....	6
CLAUSE 25. ENTIRE AGREEMENT .....	6

## APPENDIX A - DESCRIPTION OF REPORTS

## RESTRICTED - PROPRIETARY INFORMATION

The information contained herein is for use by authorized employees of the parties hereto only  
and is not for general distribution within or outside their respective companies.



Agreement No. 960418

Page 2 of 7

**PREAMBLE**

Southwestern Bell Telephone Company ("SWBT"), a Missouri corporation having its principal place of business at One Bell Center, St. Louis, Missouri 63101, agrees to provide to Southwestern Bell Communications Services, Inc. ("IXC"), having its principal place of business at 130 East Travis, Suite 550, San Antonio, Texas 78205, the services described below pursuant to the terms and conditions stated in this Agreement (the "Agreement").

**CLAUSE 1. DESCRIPTION OF SERVICES**

Pursuant to the provisions of this Agreement, SWBT will compile a Carrier Toll Data Report (the "Report") for IXC. The Report will consist of information containing bill data including interLata and intraLata toll data from SWBT's customer bills, which will be compiled for all Carrier Identification Codes ("CICs") or Access Customer Name Abbreviation ("ACNA") codes as further described in Appendix A, DESCRIPTION OF Report, attached hereto and by this reference made a part hereof. The Report will be provided by SWBT to IXC solely for its own internal use.

**CLAUSE 2. COMPENSATION**

Compensation due SWBT for the initial Report will be six hundred seventy five thousand (\$675,000.00) dollars. SWBT reserves the right, however, to charge a fee for additional Reports and/or portions thereof upon thirty (30) days' prior written notice from IXC to SWBT.

**CLAUSE 3. TERM OF AGREEMENT**

The term of this Agreement will commence June 1, 1996 (the "Effective Date"), and will continue in effect unless and until terminated by either party upon thirty (30) days' prior written notice as provided in Clause 23 hereof, TERMINATION.

**CLAUSE 4. PROJECT COORDINATORS**

The parties agree to appoint Project Coordinators to represent them in the daily administration of the Reports. As of the Effective Date, the parties' Project Coordinators will be:

(a) For IXC:

Name: Ms. Carol Beeman  
Company Name: Southwestern Bell Communications Services, Inc.  
Address: 130 East Travis, Suite 550  
City, State, Zip: San Antonio, Texas 78205  
Telephone No.: 210-352-7240

(b) For SWBT:

Name: Mr. Israel Gaona  
Company Name: Southwestern Bell Telephone Company  
Address: One Bell Center, Room 28-Q-2  
City, State, Zip: St. Louis, Missouri 63101  
Telephone No.: 314-331-1451

**RESTRICTED - PROPRIETARY INFORMATION**

The information contained herein is for use by authorized employees of the parties hereto only and is not for general distribution within or outside their respective companies.



Agreement No. 960418

Page 3 of 7

A Project Coordinator may be changed at any time by either party upon written notification to the other party's Project Coordinator.

**CLAUSE 5. CHOICE OF LAW**

This Agreement will be governed by the laws of the State of Missouri.

**CLAUSE 6. COMPLIANCE**

The Reports will be rendered in compliance with applicable federal, state and local statutes, laws, regulations, rules, ordinances, directives, orders and codes including, but not limited to, the Fair Labor Standards Act and the Occupational Safety and Health Act.

**CLAUSE 7. CONFLICT OF INTEREST**

IXC represents and warrants that no officer, director, employee or agent of SWBT has been or will be employed, retained or paid a fee, or otherwise has received or will receive any personal compensation or consideration, by or from IXC or any of its officers, directors, employees or agents in connection with the obtaining, arranging or negotiation of this Agreement or other documents entered into or executed in connection herewith.

**CLAUSE 8. CURE**

If errors are made in the transmission of the Report, IXC will notify SWBT within fifteen (15) days of the transmission date, in which case SWBT agrees to retransmit the Report to IXC. If IXC fails to notify SWBT within said fifteen (15)-day period, SWBT will have no obligation to retransmit the Report to IXC.

**CLAUSE 9. DISCLAIMER OF WARRANTIES**

Due to the nature of this Agreement, SWBT cannot guarantee that the results generated by using the Report will completely meet the objectives sought by IXC. Accordingly, SWBT MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE SERVICES PERFORMED HEREUNDER.

**CLAUSE 10. FORCE MAJEURE**

Neither party will be held responsible for any delay or failure in performance of any part of this Agreement to the extent that such delay or failure is caused by fire, flood, explosion, war, strike, embargo, government requirement, civil or military authorities, Act of God or by the public enemy, or other causes beyond the control of SWBT or IXC.

**CLAUSE 11. INACCURACIES OR OMISSIONS**

SWBT does not guarantee the completeness and accuracy of the Report, nor does SWBT assume any responsibility to correct such data or to provide correct data at a later date.

RESTRICTED - PROPRIETARY INFORMATION

The information contained herein is for use by authorized employees of the parties hereto only and is not for general distribution within or outside their respective companies.



Agreement No. 960418

Page 4 of 7

**CLAUSE 12. INDEMNIFICATION**

IXC agrees to defend, indemnify, and save harmless SWBT from and against any and all loss, liability, damage and expense (including attorneys' fees) incurred by SWBT in connection with any claim, demand, suit or judgment arising out of or based on SWBT's supplying the Report to IXC under this Agreement and caused by any act or omission of IXC. Such indemnity will apply even though SWBT may have knowledge of a change, error or omission in the Report, to the end that IXC assumes all risk of liability arising out of its use thereof.

**CLAUSE 13. INVOICES, CHARGES, AND PAYMENTS**

Any payments due for Reports provided hereunder will be due and payable within thirty (30) days after IXC's receipt of SWBT's invoice therefor.

**CLAUSE 14. LIMITATION OF LIABILITY**

SWBT HEREBY DISCLAIMS ANY LIABILITY FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL OR INDIRECT DAMAGES, WHETHER ARISING OUT OF BREACH OR WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, STRICT TORT LIABILITY OR OTHERWISE, INCURRED BY IXC AS A RESULT OF OR IN CONNECTION WITH THE SERVICES PROVIDED HEREUNDER. IN NO EVENT WILL SWBT'S LIABILITY FOR ANY REASON EXCEED THE COMPENSATION RECEIVED FROM IXC HEREUNDER.

**CLAUSE 15. LICENSE**

No licenses, express or implied, under any patents are granted by SWBT to IXC under this Agreement.

**CLAUSE 16. NON-EXCLUSIVE MARKET RIGHTS**

This Agreement does not grant IXC an exclusive right to receive the Report provided hereunder, and SWBT reserves the right to provide same to any other interexchange carrier.

**CLAUSE 17. NON-WAIVER**

No course of dealing or failure of either party to enforce strictly any term, right or condition of this Agreement will be construed as a waiver of such term, right or condition.

**CLAUSE 18. NOTICES**

Any notice or demand which under the terms of this Agreement or otherwise must or may be given or made by SWBT or IXC will be in writing and given or made by facsimile, telegram or similar communication or by certified or registered mail, return receipt requested, addressed to the respective parties as follows:

- (a) If to IXC: Southwestern Bell communication Services, Inc.  
130 East Travis, Suite 550  
San Antonio, Texas 78205  
ATTN: Ms. Carol Beeman

**RESTRICTED - PROPRIETARY INFORMATION**

The information contained herein is for use by authorized employees of the parties hereto only and is not for general distribution within or outside their respective companies.

**② Southwestern Bell Telephone**

Agreement No. 960418

Page 5 of 7

(b) If to SWBT: Southwestern Bell Telephone Company  
1010 Pine Street, Room 10-E-11  
St. Louis, Missouri 63101  
ATTN: Dara Druhe - Contract Manager

Such notice or demand will be deemed to have been given or made when sent, if sent, by facsimile, telegram or similar communication, or when deposited, postage prepaid, in the U.S. mail. The above addresses may be changed at any time by giving thirty (30) days' prior written notice as above provided.

**CLAUSE 19. PUBLICITY**

IXC agrees not to publish or otherwise distribute, without SWBT's prior written approval, any advertising, sales promotion, press releases or other publicity matters relating to the SERVICES furnished under this Agreement wherein SWBT's name or marks are mentioned or language from which the connection of said name or marks therewith may be inferred or implied.

**CLAUSE 20. SEVERABILITY**

If any provision of this Agreement is determined to be invalid or unenforceable, such invalidity or unenforceability will not invalidate or render unenforceable the entire Agreement, but rather the entire Agreement will be construed as if it did not contain the particular invalid or unenforceable provision(s), and the rights and obligations of SWBT and IXC will be construed and enforced accordingly.

**CLAUSE 21. SURVIVAL OF OBLIGATIONS**

Obligations under this Agreement which by their nature would continue beyond the termination, cancellation or expiration hereof, including, by way of illustration only and not limitation, those in the clauses entitled DISCLAIMER OF WARRANTIES, LIMITATION OF LIABILITY, PUBLICITY, SEVERABILITY and USE OF INFORMATION, will survive the termination, cancellation or expiration of this Agreement.

**CLAUSE 22. TAXES**

In the event that IXC is liable under federal law for excise taxes or under state or local law for sales taxes collected by SWBT on the SERVICES provided hereunder, then SWBT will bill such taxes separately and IXC agrees to pay them.

**CLAUSE 23. TERMINATION**

Either party hereto may terminate this Agreement in whole or in part by giving the other party hereto at least thirty (30) days' prior written notice. Upon termination, IXC agrees to pay SWBT any amounts due for the SERVICES provided hereunder up to and including the effective date of termination.

**RESTRICTED - PROPRIETARY INFORMATION**

The information contained herein is for use by authorized employees of the parties hereto only and is not for general distribution within or outside their respective companies.

② Southwestern Bell Telephone

Agreement No. 960418

Page 6 of 7

**CLAUSE 24. USE OF INFORMATION**

Any specifications, drawings, sketches, models, samples, tools, computer or other apparatus programs, technical or business information or data, written, oral or otherwise (collectively, the "Information"), furnished to IXC under this Agreement or in contemplation hereof will remain SWBT's property. All copies of such Information in written, graphic or other tangible form will be returned to SWBT upon request. Information will be kept confidential by IXC in performing under this Agreement, and may not be resold, disclosed to third parties, or used for any other purpose except upon such terms as may be agreed upon between IXC and SWBT in writing.

**CLAUSE 25. ENTIRE AGREEMENT**

This Agreement sets forth the entire understanding of the parties, and supersedes any and all prior agreements, arrangements and understandings, relating to the subject matter hereof and may not be changed except by a written instrument signed by authorized representatives of both parties.

IN WITNESS WHEREOF, the foregoing Agreement has been executed by authorized representatives of the parties hereto, in duplicate, as of the dates set forth below.

SWBT Accepted:

Southwestern Bell Telephone Company  
Inc.By: [Signature]Title: Area Manager - ServiceDate: 6/13/96

IXC Accepted:

Southwestern Bell Communications Services,

By: [Signature]Title: Director - MarketingDate: 5/23/96

Executed by:

[Signature]  
President & CEODate: 5/29/96**RESTRICTED - PROPRIETARY INFORMATION**

The information contained herein is for use by authorized employees of the parties hereto only and is not for general distribution within or outside their respective companies.



 **Southwestern Bell Telephone**

Agreement No. 960418

Page 7 of 7

**APPENDIX A  
DESCRIPTION OF REPORTS  
CARRIER TOLL DATA REPORT**

This report provides historical toll bill data, including interLata and intraLata information for SWBT's customer bills. IXC will obtain customer permission for access to bill data. SWBT will provide IXC with six (6) months of data. Data is by billing telephone numbers (BTN's) and will be transmitted to a central location (data center) in 18 track tape or electronically sent to IXC for processing.

**RESTRICTED - PROPRIETARY INFORMATION**

The information contained herein is for use by authorized employees of the parties hereto only and is not for general distribution within or outside their respective companies.